

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X **Docket#**
ANN BURTON, : 11-cv-1417 (LB)
Plaintiff, :
: :
- versus - : U.S. Courthouse
SILVERCREST CENTER FOR : Brooklyn, New York
NURSING AND REHABILITATION, :
et al., : June 30, 2011
Defendant :
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TRANSCRIPT OF CIVIL CAUSE FOR CONFERENCE
BEFORE THE HONORABLE LOIS BLOOM
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

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2

1 THE CLERK: Civil Cause for Initial Conference,
2 11-cv-1417, Burton v. Silvercrest Center for Nursing and
3 Rehabilitation, et al.

4 Will the parties please state your names for
5 the record. Plaintiff?

6 MS. BURTON: My name is Ann Burton.

7 THE CLERK: Defendant?

8 MS. KANTOR: Hello?

9 THE COURT: For defendant, state your name for
10 the record.

11 MS. KANTOR: Alesia J. Kantor, Nixon Peabody,
12 50 Jericho Quadrangle, Jericho, New York, 11753.

13 THE CLERK: The Honorable Lois Bloom presiding.

14 THE COURT: Good morning, Ms. Burton and good
15 morning Ms. Kantor.

16 MS. KANTOR: Good morning, all.

17 THE COURT: Ms. Kantor, this matter was noticed
18 for an initial conference today and I know for a fact
19 that the notice that was sent out said that the
20 conference was going to be conducted at 225 Cadman Plaza
21 East. However, the conference was scheduled at 10
22 o'clock. It is now 10:30. And I know, because you
23 called my chambers, that you went to the Central Islip
24 courthouse which I have no explanation for. But
25 Ms. Burton is here and I don't want her to be sitting in

Proceedings

3

1 court waiting for you. So again, what's the situation,
2 Ms. Kantor?

3 MS. KANTOR: We are on the L.I.E. We are in
4 Suffolk County. So we are proceeding a pace but I
5 obviously do not know exactly how long it would take me
6 to get there and I must offer my most sincere apologies
7 to Ms. Burton and, of course, to the Court, but to Ms.
8 Burton especially for inconveniencing you so
9 inadvertently but I sincerely apologize for that.

10 I cannot tell you, your Honor, exactly how long
11 it will take me to get there due to the inherent --

12 THE COURT: Well again, it's --

13 MS. KANTOR: -- the potential for construction,
14 et cetera.

15 THE COURT: Ms. Kantor, Ms. Burton had told me
16 clearly that she has something that she has to take care
17 of. She could only wait until 11:00. Since I can't
18 guarantee that you're going to make it here by 11:00, I
19 had Ms. Burton come forward and we're going to pick
20 another date and it's going to be at Ms. Burton's
21 convenience. But I did have a couple of other matters
22 that I needed to address and I told Ms. Burton, I can't
23 address the matter with only one side being present. I
24 can't speak to one side about the case without the other
25 side being present.

Proceedings

4

1 So first of all, Ms. Kantor, I understand this
2 was a mistake. I understand that your law office is out
3 on Long Island. Don't make the mistake again.

4 MS. KANTOR: Yes, your Honor.

5 THE COURT: The notice that was sent out May 27
6 clearly says courtroom 11A of the United States
7 Courthouse, 225 Cadman Plaza East, Brooklyn. So even
8 though it may have been an innocent error, it did
9 inconvenience quite a few people. Once is a mistake. It
10 won't happen again.

11 MS. KANTOR: It most certainly will not.

12 THE COURT: Okay. Ms. Burton, a couple of
13 things that I needed to bring to your attention. First
14 of all, you had written a letter to the Court about your
15 social security number being on a couple of the
16 documents. I've had that matter taken care of. I've
17 directed the clerk of the court to substitute the
18 attachment that had your social security number. For the
19 future, you can redact that number. If you had an
20 attorney, your attorney would redact the number. So if
21 you're ever exchanging materials with the other side,
22 those are not generally filed with the Court. You're now
23 going to go through discovery but we're going to discuss
24 discovery at the next conference.

25 At the next conference, whatever date we pick

Proceedings

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1 here, Ms. Kantor, I want you to come with all of
2 Ms. Burton's personnel records. I would have been
3 entering --

4 MS. KANTOR: Yes, your Honor.

5 THE COURT: I would have been entering an order
6 today requiring you to produce as initial disclosures and
7 when I say personnel records, it's everything. I don't
8 care which file you keep it in, whether it's in the
9 disciplinary file, the central file, the performance
10 evaluation file, the application file, whatever file it's
11 in.

12 I also want you to supply in writing in the
13 form of an interrogatory response the legitimate, non-
14 discriminatory reason that motivated whatever the adverse
15 action is that Ms. Burton's complaining about.

16 MS. KANTOR: And the interrogatory response,
17 you would like us to serve before the conference or bring
18 to the conference?

19 THE COURT: Bring to the conference.

20 MS. KANTOR: Understood, your Honor.

21 THE COURT: Okay. Ms. Burton, are there better
22 or worse days of the week for you to come back to court?

23 MS. BURTON: No, your Honor.

24 THE COURT: So we can just pick another date
25 and we'll agree on that date today?

Proceedings

6

1 MS. BURTON: Yes.

2 THE COURT: And let me also say because there
3 was another request in your most recent letter about
4 bringing a tape recorder in and I assume that's to record
5 the proceedings.

6 MS. BURTON: Yes.

7 THE COURT: All proceedings in court are
8 digitally recorded by our computer system. Not every
9 transcript is transcribed because it costs the government
10 money but there's always a record of every proceeding in
11 court. Okay?

12 MS. BURTON: Okay.

13 THE COURT: So for future reference, if we need
14 to get a transcript of a proceeding for a particular
15 purpose, you can make that request and we can get a
16 transcript.

17 MS. BURTON: Thank you, your Honor.

18 THE COURT: Okay.

19 MS. BURTON: Uh-huh.

20 THE COURT: Ms. Kantor, you're driving. I'm
21 going to ask you, do you know your calendar?

22 MS. KANTOR: I have taken a quick look at it in
23 preparation for this call and I know I have an argument
24 in the eastern district on the 8th of July. Other than
25 that, anything else I can move obviously to accommodate.

Proceedings

7

1 THE COURT: Well again, I'm going to give
2 Ms. Burton her choice of dates but I need to fit it into
3 my calendar, too, Ms. Burton. Would a Monday, July 11 in
4 the afternoon work for you?

5 MS. BURTON: I would prefer the morning if you
6 have, your Honor.

7 THE COURT: Okay. I'll be frank with you, the
8 reason why mornings are not preferable, I do conferences
9 with inmates and so most of the mornings are already
10 booked at the early part of July. I could give you July
11 26 which is a Tuesday.

12 MS. BURTON: Okay. Let's stick with the 11th,
13 your Honor.

14 THE COURT: The 11th in the afternoon will work
15 for you, Ms. Burton?

16 MS. BURTON: Yes, your Honor. Yes.

17 THE COURT: And I can give you preference. I
18 could put it on either at 1:30 or at 3 o'clock.

19 MS. BURTON: 1:30 would be fine, your Honor.

20 THE COURT: You'll be first up that day.

21 Do you hear that, Ms. Kantor?

22 MS. KANTOR: 1:30, July 11, your Honor.

23 THE COURT: 1:30, July 11, no second time on
24 this. We'll see you that date. You'll come with all of
25 the personnel records. You'll come with what the

Proceedings

8

1 legitimate non-discriminatory reason why Ms. Burton has
2 been terminated.

3 And Ms. Burton, you got the blue book from the
4 Court, ma'am?

5 MS. BURTON: Yes, your Honor.

6 THE COURT: So review that section about
7 discovery because at the next conference, I'll be setting
8 the deadlines for both sides to complete all discovery.
9 Okay?

10 MS. BURTON: Thank you, your Honor.

11 MS. KANTOR: Your Honor?

12 THE COURT: Yes.

13 MS. KANTOR: If I may, as to the interrogatory
14 response or, you know, the form of an interrogatory
15 response as to a legitimate non-discriminatory business
16 reason, do you want that verified as if it were indeed an
17 interrogatory response?

18 THE COURT: Correct.

19 MS. KANTOR: Okay. We will do so.

20 THE COURT: Okay. And that will be served on
21 Ms. Burton that day, so she'll be able to go and review
22 those things before she comes up with her own requests.

23 MS. KANTOR: Absolutely.

24 THE COURT: Okay. We'll see you everybody on
25 July 11 at 1:30 in courtroom 11 a.m. Thank you very

Proceedings

9

1 much.

2 MS. KANTOR: Thank you.

3 MS. BURTON: Thank you, your Honor.

4 MS. KANTOR: Good day.

5 (Matter concluded)

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C E R T I F I C A T E

I, LINDA FERRARA, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 13TH day of December, 2011.


Linda Ferrara

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